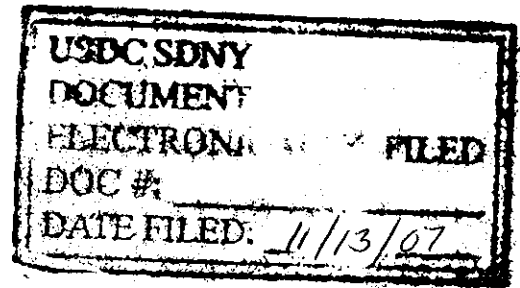


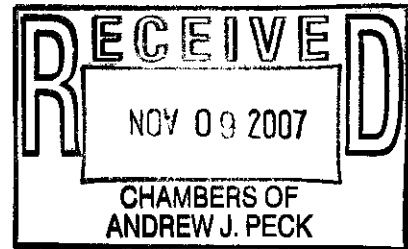
Jonathan S. Pollack
Attorney at Law
274 Madison Avenue
19th Floor
New York, NY 10016
Tel (212) 889-0761
Fax (212) 889-0279



November 9, 2007

Via Fax (212) 805-7933

The Honorable Andrew J. Peck
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
Room 1370
New York, NY 10007 - 1312



MEMO ENDORSED *~p2*

*Re: Elissa Becker v Eber Bros. Wine and Liquor Corp and Eber-NDC, LLC
07 CV 4022 (RMB)*

Dear Judge Peck:

This office represents the Plaintiff in the above captioned action.

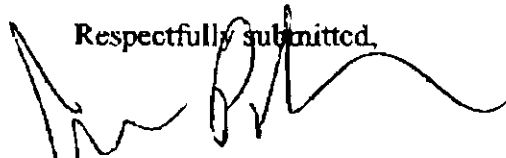
For your reference, attached please find a copy of Plaintiff's letter to Judge Berman dated November 7, 2007 (the "Letter") requesting an adjournment of the settlement conference scheduled for November 9, 2007.

Since sending the Letter, Judge Berman has Ordered the parties to attend a settlement conference on November 19, 2007. In light of the rescheduling of the Conference, we have refrained from commencing our Summary Judgment Motion, once again, until we meet with Judge Berman and the principals of this case with the hope of settling this matter.

Accordingly, as soon as the conference takes place, assuming a settlement is not reached, Plaintiff will respectfully request a change in Your Honor's previous Scheduling Order in order to afford this office the appropriate time to make Plaintiff's Motion for Summary Judgment. Although I have not spoken directly to counsel for defendants since Judge Berman issued the most recent adjournment, I anticipate that like our last proposal, any proposed schedule will be with consent of opposing counsel.

The Honorable Andrew J. Peck
November 9, 2007
Page 2 of 2

Respectfully submitted,



Jonathan S. Pollack

cc: Melanie Sarkis, Esq. (Attorney for Defendants/Via-Fax)
Ms. Elissa Becker
Steven E. Kurtz, Esq.

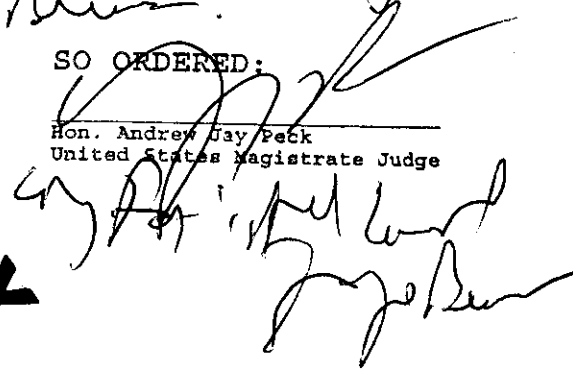
MEMO ENDORSED 11/1/07

General should obtain pre-written
discovery and schedule for any SD
work for Judge [unclear]

BY FAX

SO ORDERED:

Hon. Andrew Jay Peck
United States Magistrate Judge



Jonathan S. Pollack
Attorney at Law
274 Madison Avenue
19th Floor
New York, NY 10016
Tel (212) 889-0761
Fax (212) 889-0279

November 7, 2007

VIA FEDERAL EXPRESS

The Honorable Richard M. Berman
United States District Court
Southern District of New York
40 Center Street
Courtroom 706
New York, NY 10007

Re: Elissa Becker v Eber Bros. Wine and Liquor Corp and Eber-NDC, LLC
07 CV 4022 (RMB)

Dear Judge Berman:

This office represents the Plaintiff in the above captioned action.

By Your Honor's endorsement order of Defendants' counsel's letter dated October 23, 2007 (the "Order"), requesting an adjournment of the settlement conference (the "Conference") in this action, the Conference was adjourned until November 9, 2007 and the parties were further Ordered to engage in good faith settlement discussions.

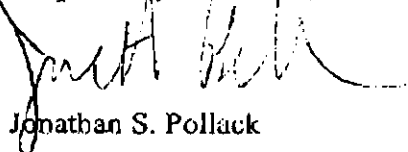
My client is the sole parent and guardian of a disabled child and due to certain prior existing obligations is unable to attend the Conference on November 9, 2007. Upon receipt of the Order, and with consent of opposing counsel, I immediately contacted Your Honor's chambers to determine if there might be a date earlier this week when Your Honor could hold the Conference (inasmuch as the week of November 12th I will be in Los Angeles on business). As soon as Your Honor's chambers informed me that any day this week was acceptable, I informed opposing counsel of the same and requested that they provide me with an acceptable date; they said they would respond to me shortly. Additionally, for the fourth time since this action was commenced, in furtherance of the Order, I presented Defendants with Plaintiff's demand to settle this action; they said they would respond to that demand shortly, as well.

The Honorable Richard M. Berman
October 7, 2007
Page 2 of 2

It was not until yesterday that opposing counsel informed me that Friday, November 9, 2007 is the only date they can attend the Conference this week. Yesterday was also Defendants' first and only response to Plaintiff's demand for settlement, which response was wholly unacceptable. I think it is fair to say, and opposing counsel concurs, that at this juncture, the parties have reached an impasse.

In light of the foregoing, and with consent of opposing counsel, rather than burden the Court with a settlement conference that will likely be a waste of judicial economy, Plaintiff respectfully requests that the Conference be cancelled and that Your Honor permit Plaintiff, pursuant to Paragraph 2A of Your Honor's Individual Practices, to formally request leave to make a Motion for Summary Judgment consistent with Judge Peck's Discovery Order.

Respectfully submitted,



Jonathan S. Pollack

cc: Melanie Sarkis, Esq. (Attorney for Defendants/Via-Fax)
Ms. Elissa Becker
Steven E. Kurtz, Esq.

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: November 13, 2007

Total Number of Pages: 5

TO	FAX NUMBER
Jonathan S. Pollack, Esq.	212-889-0279
Melanie Sarkis, Esq.	585-419-8813

TRANSCRIPTION:

MEMO ENDORSED 11/13/07

Counsel should obtain pre-motion clearance and a schedule for any SJ motion from Judge Berman.

Copy to: Judge Richard M. Berman